

EXHIBIT “A”

EXHIBIT “A”

Electronically Filed
10/19/2021 10:47 AM
Steven D. Grierson
CLERK OF THE COURT

Steven D. Grierson

CASE NO: A-21-842853-C
Department 5

1 **COMP**

2 **DAVID A. TANNER, Esq.**

3 Nevada Bar No. 8282

4 **TANNER LAW FIRM**

5 7895 W. Sunset Road, Suite 115

6 Las Vegas, NV 89113

7 Telephone (702) 987-8888

8 Facsimile (702) 410-8070

9 david@tannerlawfirm.com

10 *Attorney for Plaintiff*

11 **DISTRICT COURT**

12 **CLARK COUNTY, NEVADA**

13 MARIA PULVER, an individual,

14 Plaintiff,

15 vs.

16 SMITH'S FOOD & DRUG CENTERS, INC.
17 d/b/a SMITH'S FOOD AND DRUG, a foreign
18 corporation; DOES I through X; and ROE
19 ENTITIES I through X,

20 Defendants.

CASE NO.

DEPT. NO.

COMPLAINT

21 **COMPLAINT**

22 COMES NOW, Plaintiff, MARIA PULVER, by and through her attorney, David A.
23 Tanner, Esq. of the Tanner Law Firm, and complains and alleges against Defendants, and each of
24 them, as follows:
25 ...
26 ...
27 ...
28 ...

THE PARTIES

1. This Court has jurisdiction over this matter under NRS 14.065 and NRS 4.370(1), as the facts alleged occurred in Clark County, Nevada and involve an amount in controversy in excess of \$15,000.00. Venue is proper pursuant to NRS 13.040, as Defendant, or any one of them resided in Clark County, Nevada at the commencement of this action.

2. At all times relevant hereto, Plaintiff, MARIA PULVER ("Maria" or "Plaintiff"), is and was a resident of Clark County, Nevada.

3. At all times relevant hereto, Defendant, SMITH'S FOOD & DRUG CENTERS, INC. d/b/a SMITH'S FOOD AND DRUG, is and was a foreign corporation and was licensed to and was conducting business in Clark County, Nevada.

4. Plaintiff believes that SMITH'S FOOD & DRUG CENTERS, INC. d/b/a SMITH'S FOOD AND DRUG owned, operated, maintained, and managed Smith's Food and Drug ("Smith's"), a store located in Clark County, Nevada.

5. Smith's is located at 10600 Southern Highlands Parkway, Las Vegas, Nevada 89141.

6. The true names and capacities, whether individual, corporate, associate, or otherwise of Defendant Does I through X and Roe Corporations I through X are unknown to Plaintiff at this time, who therefore sues said Defendant by such fictitious names. Plaintiff is informed and believes and therefore alleges that each of the Defendant designated as Does and Roe Entities are responsible in some manner for the events and happenings referred to as alleged herein, whether by actually or have responsibility for creating the hazard, failing to warn of the hazard, owning, managing, maintaining, inspecting, cleaning, supervising, or controlling the premises, or in some other manner as set forth herein. Plaintiff will seek leave of the Court to amend this Complaint to insert the true names and capacities of Does I through X and Roe Entities I through X when the same have been ascertained and to join such Defendants in this action.

GENERAL ALLEGATIONS

7. On or about January 15, 2021, Plaintiff was at Smith's, located at 10600 Southern Highlands Parkway, Las Vegas, Nevada 89141.

1 8. Plaintiff was legally on the premises at Smith's at the time of this incident.

2 9. At all times relevant herein, the Defendant was the owner, manager, maintainer,
3 inspector, supervisor, or controller of the premises where Plaintiff was located.

4 10. Plaintiff believes that at all times relevant herein, the Defendant and each of them
5 were the employees or agents of the other Defendant and were acting in the course and scope of
6 their employment or agency.

7 11. While in the restroom, Plaintiff proceeded towards the sink when she encountered
8 an unknown and unforeseen liquid on the floor causing her to slip and fall causing severe and
9 debilitating injuries to herself.

10 12. Plaintiff believes that Defendant has a policy that all areas of Smith's Food and
11 Drug including the restrooms must be routinely inspected, maintained, and cleaned so they are
12 kept safe and in good repair or warnings used to ensure patrons, such as Plaintiff, are not harmed.

13 13. Plaintiff believes that the Defendant understands that a transparent, latent liquid
14 on the restroom floor is a hazardous condition and can lead to a patron being injured.

15 14. On or about January 15, 2021, Defendant negligently failed to maintain, manage,
16 inspect, clean, supervise, control, and repair the premises and further failed to warn Plaintiff of
17 hazards which resulted in Plaintiff's injuries.

18 15. Defendant's personnel did not use warnings to alert patrons, such as Plaintiff, of
19 the hazardous condition.

20 **FIRST CAUSE OF ACTION**
21 **(Negligence)**

22 16. Plaintiff hereby incorporates the allegations set forth above in paragraphs 1
23 through 15 as though fully set forth herein.

24 17. Defendant had a duty to maintain, manage, inspect, clean, supervise, control, and
25 repair the premises and associated equipment to ensure that no hazards existed that could harm a
26 patron. Defendant had a duty to warn of hazards such as liquid on the floor.

27 18. Defendant breached these duties, which breached proximately cause harm to
28 Plaintiff.

19. As a result of Defendant's conduct, Plaintiff has suffered damages, and Plaintiff is entitled to damages in excess of \$15,000.00.

20. As a result of Defendant's conduct, as set forth herein, Plaintiff has been required to retain the services of an attorney, and, as a direct, natural, and foreseeable consequence thereof, has been damaged thereby, and is entitled to reasonable attorneys' fees and costs.


WHEREFORE, Plaintiff requests that this Court enter judgment against Defendant as follows:

1. General damages in an amount in excess of \$15,000.00;
2. Special damages in an amount in excess of \$15,000.00;
3. Costs of suit and attorneys' fees;
4. For judgment for interest; and
5. For such other and further relief as this Court deems just and proper.

Dated this 18 date of October, 2021.

By: 

David A. Tanner, Esq.
Nevada Bar No. 8282
TANNER LAW FIRM
7895 W. Sunset Road, Suite 115
Las Vegas, NV 89113
Telephone (702) 987-8888
Facsimile (702) 410-8070
david@tannerlawfirm.com
Attorney for Plaintiff



1 SUMM

CASE NO: A-21-842853-C
Department 5

2
3
4 DISTRICT COURT

5 CLARK COUNTY, NEVADA

6 MARIA PULVER, an individual,

7
8 Plaintiff,

9 vs.

10 SMITH'S FOOD & DRUG CENTERS, INC.
11 d/b/a SMITH'S FOOD AND DRUG, a foreign
12 corporation; DOES I through X; and ROE
13 ENTITIES I through X,

14 Defendants.

CASE NO.

DEPT. NO.

SUMMONS

15 **NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST**
16 **YOU WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND WITHIN 20 DAYS.**
17 **READ THE INFORMATION BELOW.**

18 **SMITH'S FOOD & DRUG CENTERS, INC. d/b/a SMITH'S FOOD AND DRUG**

19 **TO THE DEFENDANT:** A civil Complaint has been filed by the plaintiff against you for
20 the relief set forth in the Complaint.

21 1. If you intend to defend this lawsuit, within 20 days after this Summons is served on
22 you exclusive of the day of service, you must do the following:

23 a. File with the Clerk of this Court, whose address is shown below, a formal written
24 response to the Complaint in accordance with the rules of the Court.

25 b. Serve a copy of your response upon the attorney whose name and address is
26 shown below.

2. Unless you respond, your default will be entered upon application of the plaintiff and this Court may enter a judgment against you for the relief demanded in the Complaint, which could result in the taking of money or property or other relief requested in the Complaint.

3. If you intend to seek the advice of an attorney in this matter, you should do so promptly so that your response may be filed on time.


Issued at the direction of:



DAVID A. TANNER, ESQ.
Nevada Bar No. 8282
TANNER LAW FIRM
7895 W. Sunset Road, Suite 115
Las Vegas, NV 89113
david@tannerlawfirm.com
Phone (702) 987-8888
Facsimile (702) 410-8070

STEVEN D. GRIERSON, CLERK OF
COURT

By:



Deputy Clerk
County Courthouse
200 Lewis Avenue
Las Vegas, Nevada 89155

10/20/2021

Laurie Williams

STATE OF NEVADA)

ss.

AFFIDAVIT OF SERVICE

COUNTY OF CLARK)

Jennifer Nicole Hernandez, being duly sworn says: That at all times herein affiant was and is a citizen of the United States, over 18 years of age, not a party to or interested in the proceeding in which this affidavit is made. That affiant received 1 copy(ies) of the Summons and Complaint on the 25th day of October, 2021 and served the same on the 28th day of October, 2021 by:

(Affiant must complete the appropriate paragraph)

1. Delivering and leaving a copy with the defendant _____ at _____

2. Serve the defendant _____ by personally delivering and leaving a copy with _____, as person of suitable age and discretion residing at the defendant's usual place of abode located at _____ (Confirmed with _____ Defendant lives at stated address.)

(Use paragraph 3 for serve upon agent, completing A or B)

3. Serving the defendant Smith's Food & Drug Centers, Inc. d/b/a Smith's Food and Drug, a foreign corporation, by personally delivering and leaving a copy at 112 North Curry St., Carson City, NV 89703 @ 10:28 A.M.

a. With _____ as _____, an agent lawfully designated by statute to accept service of process;

b. With Corporation Service Company with Kris Osborne (Clerk for CSC), pursuant to NRS 14.020 as a person of suitable age and discretion at the above address, which address is the address of the resident agent as shown on the current certificate of designation filed with the Secretary of State.

4. Personally depositing a copy in a mailbox of the United States Post Office, enclosed in a sealed envelope postage prepaid (check appropriate method):

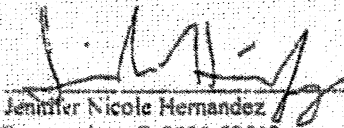
_____ ordinary mail
 _____ certified mail, return receipt requested
 _____ registered mail, return receipt requested

addressed to the defendant _____ at the defendant's last known address which is _____

I declare under penalty of perjury under the law of the State of Nevada that the forgoing is true and correct.

Execute on: 11/01/2021

No notary is required per NRS 53.045


 Jennifer Nicole Hernandez
 Registration# R-2020-09512
 KC Investigations, LLC
 284 E. Lake Mead Pkwy Ste. C-310
 Henderson, NV 89015
 License# 2086

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Steven D. Grierson
CLERK OF THE COURT



1 ANSC
2 JERRY S. BUSBY
3 Nevada Bar #001107
4 COOPER LEVENSON, P.A.
5 3016 West Charleston Boulevard - #195
6 Las Vegas, Nevada 89102
7 (702) 366-1125
8 FAX: (702) 366-1857
9 jbusby@cooperlevenson.com
10 Attorneys for Defendant
11 SMITH'S FOOD & DRUG CENTERS, INC.

7 **DISTRICT COURT**

8 **CLARK COUNTY, NEVADA**

9 MARIA PULVER, an individual,
10
11 Plaintiff,

11 vs.

12 SMITH'S FOOD & DRUG CENTERS, INC.
13 d/b/a SMITH'S FOOD AND DRUG, a foreign
14 corporation; DOES I through X; and ROE
15 ENTITIES I through X,

16 Defendants.

CASE NO.: A-21-842853-C
DEPT NO.: V

**DEFENDANT SMITH'S FOOD & DRUG
CENTERS, INC.'S ANSWER TO
PLAINTIFF'S COMPLAINT**

16 COMES NOW, Defendant, SMITH'S FOOD & DRUG CENTERS, INC., improperly designated
17 as SMITH'S FOOD & DRUG CENTERS, INC. d/b/a SMITH'S FOOD AND DRUG, by and through its
18 attorney of record, JERRY S. BUSBY, ESQ., of the law firm COOPER LEVENSON, P.A., and hereby
19 answers Plaintiff's Complaint on file herein as follows:

20 **I.**

21 Paragraph 1 of Plaintiff's Complaint states a legal conclusion which is the sole province of the
22 Court to determine. This answering Defendant therefore denies said Paragraph.

23 **II.**

24 This answering Defendant states that it does not have sufficient knowledge or information
25 upon which to base a belief as to the truth of the allegations contained in Paragraphs 2, 6, 7, 8, 10,
26 11, 12, 13 and 15 of Plaintiff's Complaint and upon said ground, denies each and every allegation
27 contained therein.

28 ///

1 III.

2 This answering Defendant admits the allegations contained in Paragraph 3 of Plaintiff's
3 Complaint.

4 IV.

5 In response to Paragraph 4 of Plaintiff's Complaint, this answering Defendant admits that it
6 owned, operated, maintained, and managed the store concerned herein. This answering Defendant
7 denies any remaining allegations contained in said Paragraph.

8 V.

9 In response to Paragraph 5 of Plaintiff's Complaint, this answering Defendant admits that a
10 SMITH'S store is located at 10600 Southern Highlands Parkway, Las Vegas, Nevada 89141.

11 VI.

12 In response to Paragraph 9 of Plaintiff's Complaint, this answering Defendant admits it
13 owned, managed, maintained and controlled the SMITH'S store concerned herein. This answering
14 Defendant denies any remaining allegations contained in said Paragraph.

15 VII.

16 This answering Defendant denies each and every allegation contained in Paragraph 14 of
17 Plaintiff's Complaint.

18 VIII.

19 This answering Defendant, in response to Paragraph 16 of that portion of Plaintiff's Complaint
20 entitled "**FIRST CAUSE OF ACTION (Negligence)**", incorporates herein by reference each and every
21 answer previously alleged to the Paragraphs which the Plaintiff has realleged by incorporation.

22 IX.

23 Paragraph 17 of that portion of Plaintiff's Complaint entitled "**FIRST CAUSE OF ACTION**
24 **(Negligence)**" states a legal conclusion which is the sole province of the Court to determine. This
25 answering Defendant therefore denies said Paragraph.

26 X.

27 This answering Defendant denies each and every allegation contained in Paragraphs 18, 19
28 and 20 of that portion of Plaintiff's Complaint entitled "**FIRST CAUSE OF ACTION**

1 (Negligence)".

2 **AFFIRMATIVE DEFENSES**

3 **FIRST AFFIRMATIVE DEFENSE**

4 Plaintiff did not use reasonable diligence to care for her injuries, thereby aggravating said injuries
5 as a result. Therefore, Plaintiff's claims against this answering Defendant should be denied, or any
6 recovery reduced in proportion to said negligence of Plaintiff.

7 **SECOND AFFIRMATIVE DEFENSE**

8 At the time and place alleged in Plaintiff's Complaint, and for a period of time prior thereto,
9 Plaintiff did not exercise ordinary care, caution, or prudence for the protection of her own safety, and
10 injuries and damages complained of by Plaintiff in the Complaint, if any, were directly and proximately
11 caused or contributed to by the fault, failure to act, carelessness, and negligence of Plaintiff, and
12 therefore Plaintiff's claims against this answering Defendant should be denied, or any recovery reduced
13 in proportion to said negligence of Plaintiff.

14 WHEREFORE, this answering Defendant prays that Plaintiff take nothing by virtue of her
15 Complaint on file herein; for costs and disbursements incurred in this action; and for such other and
16 further relief as to the Court may deem proper.

17 Dated this 17th day of November, 2021.

18 COOPER LEVENSON, P.A.

19
20 By /s/ Jerry S. Busby
21 Jerry S. Busby
22 Nevada Bar No. 001107
23 3016 West Charleston Boulevard - #195
24 Las Vegas, Nevada 89102
25 Attorneys for Defendant
26 SMITH'S FOOD & DRUG CENTERS, INC.
27
28

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of COOPER LEVENSON, P.A. and that on this 17th day of November, 2021, I did cause a true copy of the foregoing **DEFENDANT SMITH'S FOOD & DRUG CENTERS, INC.'S ANSWER TO PLAINTIFF'S COMPLAINT** to be served upon each of the parties listed below via electronic service through the Eighth Judicial District Court's Odyssey E-File and Serve System:

David A. Tanner, Esq.
TANNER LAW FIRM
7895 West Sunset Road – Suite 115
Las Vegas, NV 89113
Attorneys for Plaintiff

By /s/ Theresa H. Rutkowski
An Employee of
COOPER LEVENSON, P.A.

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12/7/2021 2:35 PM
Steven D. Grierson
CLERK OF THE COURT



PET

DAVID A. TANNER, Esq.

Nevada Bar No. 8282

TANNER LAW FIRM

7895 W. Sunset Rd., Suite 115

Las Vegas, NV 89113

Telephone (702) 987-8888

Facsimile (702) 410-8070

david@tannerlawfirm.com

Attorney for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

MARIA PULVER, an individual,

Plaintiff,

vs.

SMITH'S FOOD & DRUG CENTERS, INC.
d/b/a SMITH'S FOOD AND DRUG, a foreign
corporation; DOES I through X; and ROE
ENTITIES I through X,

Defendants.

CASE NO.: A-21-842853-C

DEPT. NO.: V

**PETITION FOR EXEMPTION FROM
ARBITRATION**

PETITION FOR EXEMPTION FROM ARBITRATION

Plaintiff, MARIA PULVER, hereby requests the above-entitled matter be exempted from arbitration pursuant to Nevada Arbitration Rules 3 and 5, because this case involves an amount in issue in excess of \$50,000.00, exclusive of interest and costs.

A summary of the facts which support the contention for exemption are as follows:

...

...

...

...

On or about January 15, 2021, Plaintiff was at Smith's located at 10600 Southern Highlands Parkway, Las Vegas, Nevada 89141. While in the restroom, Plaintiff proceeded towards the sink when she encountered an unknown and unforeseen liquid on the floor causing her to slip and fall causing severe and debilitating injuries to herself.

Following Plaintiff's January 15, 2021 incident, Ms. Pulver treated at St. Rose Dominican Hospital San Martin for pain in her left hip. On January 23, 2021, Ms. Pulver treated at St. Rose Dominican Hospital San Martin Campus for constant pain in her left hip. On February 8, 2021, Ms. Pulver was transported by ambulance to St. Rose Dominican Hospital San Martin. She was being treated for hip pain so she received an x-ray on her hip. On February 18, 2021, Ms. Pulver received treatment at Desert Orthopedic Center. Here, she treated for left hip pain. On June 1, 2021, Ms. Pulver treated at Centennial Hills Hospital Medical Center. Ms. Pulver received a left hip acetabular component revision with liner exchange. Ms. Pulver continues to follow up with her doctors at Desert Orthopedic Center.

Due to Ms. Pulver's significant injuries, to date she has incurred the following medical expenses:

1.	St. Rose Dominican Hospital San Martin	\$55,145.50
2.	Vituity NV Koury Partners, PLLC	\$13,992.00
3.	Radiology Associates of Nevada	\$40.78
4.	American Medical Response	\$2,790.10
5.	Desert Orthopedic Center	\$11,529.00
6.	US Anesthesia Partners	\$850.08
7.	Valley Anesthesiology Consultants	\$10,800.00

TOTAL: \$95,147.46

Ms. Pulver will seek compensation for her past and future pain and suffering, loss of household services, and loss of enjoyment of life.

Based upon the foregoing, Plaintiff requests that this matter be exempted from the Arbitration Program.

...

...

1 I hereby certify pursuant to NRCP 11 this case to be within the exemption stated above
2 and am aware of the sanctions which may be imposed against any attorney or party who, without
3 good cause or justification, attempts to remove a case from the Arbitration Program.

4
5 Dated this 9 date of December, 2021.

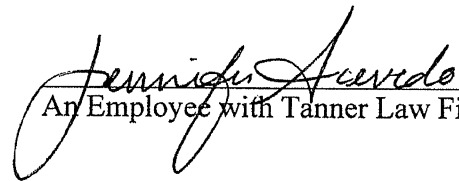
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7
8
9 By: 

10 David A. Tanner, Esq.
11 Nevada Bar No. 8282
12 TANNER LAW FIRM
13 7895 W. Sunset Rd, Suite 115
14 Las Vegas, NV 89113
15 Telephone (702) 987-8888
16 Facsimile (702) 410-8070
17 david@tannerlawfirm.com
18 *Attorney for Plaintiff*
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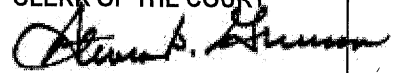
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of the law firm of TANNER LAW FIRM and that on the 7 day of December, 2021, I served the above and foregoing **PETITION FOR EXEMPTION FROM ARBITRATION** by electronic service to the following:

Jerry S. Busby, Esq.
COOPER LEVENSON, P.A.
3016 West Charleston Boulevard #195
Las Vegas, Nevada 89102
Telephone: (702) 366-1125
Facsimile: (702) 366-1857
Attorneys For Defendant
Smith's Food & Drug Centers, Inc.


An Employee with Tanner Law Firm

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CLERK OF THE COURT



CDRG

DISTRICT COURT

CLARK COUNTY, NEVADA

Maria Pulver, Plaintiff(s)

vs.

CASE NO: A-21-842853-C

DEPT. NO: V

Smith's Food & Drug Centers, Inc,

Defendant(s)

COMMISSIONER'S DECISION ON REQUEST FOR EXEMPTION

REQUEST FOR EXEMPTION FILED ON: December 07, 2021

EXEMPTION FILED BY: Plaintiff OPPOSITION: No

DECISION

Having reviewed the Request for Exemption, and all related pleadings, the Request for Exemption is hereby GRANTED.

DATED this 21st of December, 2021.



ADR COMMISSIONER

NOTICE

Pursuant to Nevada Arbitration Rule 5(D), you are hereby notified you have five (5) days from the date you are served with this document within which to file written objections with the Clerk of Court and serve all parties. The Commissioner's Decision is deemed served three (3) days after the Commissioner's designee deposits a copy of the Decision in the U.S. Mail. **Pursuant to NEFCR Rule 9(f)(2) an additional 3 days is not added to the time if served electronically (via e-service).**

A copy of the foregoing Commissioner's Decision on Request for Exemption was electronically served, pursuant to N.E.F.C.R. Rule 9, to all registered parties in the Eighth Judicial District Court Electronic Filing Program on the date of e-filing.

If indicated below, a copy of the foregoing Commissioner's Decision on Request for Exemption was also:

☐ Mailed by United States Postal Service, Postage prepaid, to the proper parties listed below at their last known address(es) on _____, 2021.

/s/ Loretta Walker
ADR COMMISSIONER'S DESIGNEE